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9 **Attorney for the Class**

10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **(OAKLAND DIVISION)**

13 **KIRK KEILHOLTZ and KOLLEEN**
14 **KEILHOLTZ for themselves and on**
15 **behalf of those similarly situated,**

16 **Plaintiffs,**

17 **vs.**

18 **SUPERIOR FIREPLACE COMPANY;**
19 **LENNOX HEARTH PRODUCTS, INC.;**
20 **LENNOX INTERNATIONAL, INC. and**
21 **DOES 1 through 25, Inclusive,**

22 **Defendants.**

23 **No. CV 08-00836 SI**

24 **[PROPOSED] ORDER**
25 **CONTINUING INITIAL CASE**
26 **MANAGEMENT CONFERENCE**

27 In light of the following, Plaintiffs Kirk and Kolleen Keilholtz request the following
28 continuance of the initial case management conference in this action:

WHEREAS, plaintiffs represent as follows:

1. Summons in this action were not received until May 6, 2008, delaying service efforts;
2. Service has, as of May 14, 2008, been accomplished on all defendants;
3. Plaintiffs sought to, but were unsuccessful in, obtaining the cooperation of defense counsel in two related California State Court actions in order to prepare an initial joint

1 management conference (see Declaration of Kirk J. Wolden re: Inability to File Joint Case
2 Management Conference Statement filed May 9, 2008);

3 4. Defendants should file their appearances in this action by the middle of June
4 2008; and

5 5. Plaintiffs believe that the interest of efficiency and economy warrant a brief
6 continuance of the initial case management conference; and

7 6. July 11, 2008 at 2:00 p.m. is presently available to set a continued case
8 management conference.

9 Based upon plaintiffs' representations and request, and good cause appearing
10 therefore:

11 The initial case management conference in this action, presently set for May 16, 2008,
12 at 2:00 p.m., is continued until July 11, 2008, at 2:00 p.m. Plaintiffs shall give notice of this
13 continued case management conference to each defendant within seven (7) calendar days of
14 each defendant's appearance in this action.

15
16 IT IS SO ORDERED.



SUSAN ILLSTON
United States District Court Judge

1 **Re: Keilholtz v. Superior Fireplace Co., et al.**
2 **Northern District Court of California**
3 **Case No.: CV 08-00836 SI**

4 **PROOF OF SERVICE**

5 I, Connie McComb, declare and state:

6 I am a citizen of the United States, over 18 years of age, employed in the County of
7 Sacramento, and not a party to the within action. My business address is 608 University
8 Avenue, Sacramento, CA 95825.

9 On May 14, 2008, I served the within **DECLARATION OF KIRK J. WOLDEN RE**
10 **INABILITY TO FILE JOINT CASE MANAGEMENT STATEMENT** on the following parties in
11 said action by placing a true copy thereof enclosed in a sealed envelope by:

12 ☒ (BY MAIL) I caused such envelope with postage thereon fully prepaid to be placed in
13 the United States mail at Sacramento, California. I am familiar with my firm's practice
14 whereby the mail is given the appropriate postage and is placed in the designated area
15 to be deposited in a U.S. mail box in Sacramento, California, in the ordinary course of
16 business;

17 ☐ (BY EXPRESS MAIL) I caused such envelope to be placed in the U.S. Mail/UPS
18 depository at Sacramento, California; overnight service;

19 ☐ (BY PERSONAL SERVICE) delivered by hand to addressee at the address listed below;

20 ☐ (BY FACSIMILE/TELECOPIER) I personally sent to the addressee's telecopier number
21 (stated above) a true copy of the above-described documents.

22 Michael J. Thomas, Esq.
23 DOWNEY BRAND LLP
24 555 Capitol Mall, Tenth Floor
25 Sacramento, CA 95814

26 Attorneys for Defendants,
27 SUPERIOR FIREPLACE COMPANY;
28 LENNOX HEARTH PRODUCTS INC.; and
LENNOX INTERNATIONAL INC.

Tel: (916) 444-1000
Fax: (916) 444-2100

29 I declare under penalty of perjury under the laws of the State of California that the
30 foregoing is true and correct. Executed on May 14, 2008, at Sacramento, California.

31 
32 _____
33 Connie McComb